

PROSKAUER ROSE LLP
Michael J. Lebowich
Thomas A. McKinney
1585 Broadway
New York, New York 10036
(212) 969-3217
Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
NEDERLANDER PRODUCING COMPANY OF :
AMERICA, INC., THE NEW GREASE ON :
BROADWAY L.P., WICKED LLC, :
THE DROWSY CHAPERONE, LLC, :
RENT LLC, THE NEW YORK HAIRSPRAY :
COMPANY, L.P., BRUISER ON :
BROADWAY L.P., CYRANO BROADWAY :
COMPANY LLC, :
:

Plaintiffs, :

- against - :

INTERNATIONAL ALLIANCE OF :
THEATRICAL STAGE EMPLOYEES (IATSE), :
LOCAL 1, and JAMES J. CLAFFEY JR., :
individually and as president of :
INTERNATIONAL ALLIANCE OF :
THEATRICAL STAGE EMPLOYEES (IATSE), :
LOCAL 1, :
:

Defendants. :
----- X

07 Civ. 10561 (BSJ) (KNF)

COMPLAINT

Plaintiffs, by their attorneys, Proskauer Rose LLP, for their complaint against
defendants, allege as follows:

JURISDICTION

1. This action to recover damages for unlawful secondary activity arises under Section 303(a) of the Labor Management Relations Act, 29 U.S.C. § 187(a) (“Section 303”).

2. This Court has jurisdiction and venue without regard to the amount involved or the parties’ citizenship pursuant to Section 303 (b) and Section 301 of the Labor Management Relations Act, 29 U.S.C. § 185 (“Section 301”).

THE PARTIES

3. Plaintiff Nederlander Producing Company of America, Inc. (“Nederlander”) is a New York corporation with its principal place of business at 1450 Broadway 6th Floor, New York, New York, 10018.

4. Plaintiff The New Grease on Broadway L.P. is the producer of the Broadway production “Grease.”

5. Plaintiff Wicked LLC is the producer of the Broadway production “Wicked.”

6. Plaintiff The Drowsy Chaperone, LLC is the producer of the Broadway production “The Drowsy Chaperone.”

7. Plaintiff Rent LLC is the producer of the Broadway production “Rent.”

8. Plaintiff The New York Hairspray Company, L.P. is the producer of the Broadway production “Hairspray.”

9. Bruiser on Broadway L.P. is the producer of the Broadway production “Legally Blonde.”

10. Cyrano Broadway Company LLC is the producer of the Broadway production “Cyrano De Bergerac.”

11. The plaintiffs identified in paragraphs 4 through 9 above are collectively referred to herein as the “Producer Plaintiffs.”

12. All of the plaintiffs are engaged in an industry affecting commerce within the meaning of Section 301.

13. Defendant the International Alliance of Theatrical Stage Employees, Local 1 (“Local 1” or “Union”), is a labor organization with its principle place of business at 320 West 46th Street, New York, New York 10036-8399. The Union is the exclusive collective bargaining representative for employees in an industry affecting commerce within the meaning of Section 301.

14. Defendant James J. Claffey Jr. is, and at all relevant times has been, President of the Union.

FACTUAL ALLEGATIONS

The Nederlander Theatres and Current Productions

15. Nederlander employs stagehands at the following Broadway theatres: the Brooks Atkinson, Gershwin, Lunt-Fontanne, Marquis, Minskoff, Nederlander, Neil Simon, Palace, and Richard Rogers.

16. At the current time, the following Broadway productions are housed at Nederlander theatres:

<u>Theatre</u>	<u>Production</u>	<u>Producer</u>
Brooks Atkinson	Grease	The New Grease On Broadway L.P.
Gershwin	Wicked	Wicked LLC
Marquis	The Drowsy Chaperone	The Drowsy Chaperone, LLC
Nederlander	Rent	Rent LLC
Neil Simon	Hairspray	The New York Hairspray Company, L.P.
Palace	Legally Blonde	Bruiser on Broadway L.P.
Richard Rogers	Cyrano De Bergerac	Cyrano Broadway Company LLC
Lunt Fontanne	The Little Mermaid	Buena Vista Theatrical Group, LTD.
Minskoff	The Lion King	Buena Vista Theatrical Group, LTD

17. Local 1 represents all stagehands employed by Nederlander at its nine (9) Broadway theatres, including, among others, the operators of lighting, sound, video, scenery, carpentry, electrical rigging, special effects and other related “backstage” work for all Broadway productions.

Collective Bargaining Relationships with Local 1 in Broadway Theatres

18. The League of American Theatres and Producers, Inc. (the “League”) is an organization of theatre owners and operators, producers, presenters, and general managers of Broadway performances.

19. The League acts as a collective bargaining representative of a multi-employer bargaining group consisting of two theatre owners - - the Shubert Organization (“Shubert”) and Jujamcyn Theatres (“Jujamcyn”) - - in collective bargaining negotiations with Local 1 over the terms and conditions of employment for stagehands employed in Shubert and Jujamcyn theatres.

20. Nederlander has a separate collective bargaining relationship with Local 1. Nederlander’s collective bargaining agreement with Local One expired on July 30, 2007.

21. The League’s collective bargaining agreement with Local 1 also expired on July 30, 2007.

The Current Labor Dispute Between Local 1 and the League

22. The League has been bargaining with Local 1 since on or about July 13, 2007 in an effort to reach a new agreement for the contract that expired on July 30, 2007.

23. The League is not representing Nederlander in any contract negotiation with Local 1.

24. In July 2007, Nederlander requested that Local 1 allow it to engage in coordinated bargaining with the League. Local 1 denied this request.

25. At this time, Local 1 and Nederlander have not engaged in any formal bargaining sessions for a new collective bargaining agreement.

26. On or about July 10, 2007, Nederlander and Local 1 entered into a letter agreement (“July 10 Letter”) where they agreed that Local 1 would offer Nederlander any better terms and conditions that it gave to the League, that Nederlander would offer any additional

increases agreed to by the League in its negotiations with Local 1, and that the parties would agree to resolve any Nederlander-specific issues after the League completed its negotiations with Local 1. A true and accurate copy of this letter agreement is attached hereto as Exhibit A.

27. The July 10 Letter also clearly stated that “Local One understands that the Nederlander Organization continues to desire a separate contract with the Local and the Local agrees with this completely. By signing this letter of agreement both parties will not be required to negotiate simultaneously with the League negotiations.”

28. On or about October 9, 2007, Local 1 and the League exchanged final offers in their negotiations. Shortly thereafter, the League declared that its negotiations with Local 1 were at an impasse and, consistent with their rights under federal labor law, the Shubert Organization and Jujamcyn Theatres unilaterally implemented certain terms of the League’s final offer.

29. Nederlander did not implement any new terms of employment at that time, because it had not engaged in any bargaining with Local 1.

30. On November 10, 2007, at approximately 10:00 am, Local 1 announced that “Our latest attempt to reach a new agreement with The League of American Theatres and Producers was once again unsuccessful” and, therefore, Local 1 is “hereby on strike against all Theatres governed under the expired collective bargaining agreements of the Shubert, Jujamcyn, and Nederlander organizations.” (emphasis added) A true and correct copy of Local 1’s complete strike statement is attached hereto as Exhibit B.

31. Shortly after that announcement, Local 1 members walked out and began to picket all of Shubert, Jujamcyn, and Nederlander’s Broadway theatres.

32. Since November 10, 2007, Local One members have picketed all nine (9) Nederlander theatres carrying or wearing large white and black signs that make no mention of a strike against or any other dispute with Nederlander. Instead, they read in part, “Our Families are Number One - Broadway Stagehands **ON STRIKE** Against Takebacks By the League of American Theatres and Producers – Theatrical Protective Union Local No. ONE.” (emphasis added) Thus, Local 1 has engaged in a strike against Nederlander with the sole motivation of impacting Local 1’s negotiations with the League.

33. Since July 31, 2007, at no point has Local 1 attempted to engage in collective bargaining negotiations with Nederlander. Nevertheless, Local 1 continues to strike against Nederlander and all of its Broadway theatres.

The Impact of Local 1’s Strike

34. As a result of the strike, most Broadway productions have come to a halt. As a direct result of Local 1’s strike and pickets and the resultant refusal of actors, musicians, and other union-represented employees to cross Local 1’s picket line in front of the nine (9) Nederlander theatres, all theatrical performances at Nederlander theatres, including those of the productions produced by the Producer Plaintiffs, scheduled from November 10, 2007 through November 26 have been cancelled.

35. The strike has already proved extremely costly for Nederlander and the Producer Plaintiffs as November is historically one of the highest revenue producing months for the Broadway theatre industry.

36. To date, Nederlander and Producer Plaintiffs, collectively, have lost in excess of \$35 million in gross revenues from ticket sales, concessions, merchandise and other related items.

COUNT I

UNLAWFUL SECONDARY ACTIVITY

37. Plaintiffs incorporate by reference into this paragraph the allegations of paragraphs 1 through 36 above.

38. Local 1 is engaged in an unlawful strike against Nederlander in protest of the League's position in its collective bargaining negotiations with Local 1. Nederlander and the Producer Plaintiffs are neutral employers in the League's dispute with Local 1.

39. Local 1's actions constitute threats, coercion or restraint of Nederlander and the Producer Plaintiffs, in an unlawful effort to have Nederlander and the Producer Plaintiffs attempt to exert influence over the League in its negotiations with Local 1.

40. Local 1's conduct, thus, constitutes unlawful secondary activity in violation of Section 8(b)(4)(B) of the National Labor Relations Act.

DAMAGES INCURRED

41. Nederlander and the Producer Plaintiffs have suffered severe, direct economic damage as a result of the strike, as they have been unable to present shows in any Nederlander theatre since November 10, 2007.

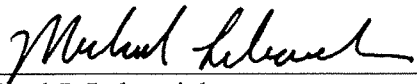
42. The lost performances can never be made up and the ticket sales and other revenue generated by those performances will likely be lost forever. As stated above, to date, Nederlander and the Producer Plaintiffs, collectively, have lost more than \$35 million in gross revenues.

WHEREFORE, Plaintiffs pray for judgment:

A. Awarding to plaintiffs the damages and lost revenue caused by defendants' unlawful activities; and

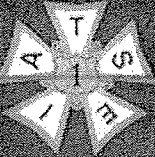
B. Granting such other and further relief to which plaintiffs may be entitled under the circumstances, and costs and disbursements incurred in this action.

PROSKAUER ROSE LLP

By: 
Michael J. Lebowich
Thomas A. McKinney
Attorneys for Plaintiffs
1585 Broadway
New York, NY 10036
(212) 969-3217

Dated: November 20, 2007
New York, New York

Exhibit A



Theatrical Stage Employees Local One IATSE

Member Login
User ID:
Password:
Login

About Local One | **News** | Hire Us | Health & Safety

Upcoming Events
At Work At
In the Press

News In the Press

Local One On Strike (All Shubert, Jujamcyn, and Nederlander Theatres)

November 10, 2007

Dear Brothers and Sisters,

Our latest attempt to reach a new agreement with The League of American Theatres and Producers was once again unsuccessful.

Pursuant to the strike requirements and provisions of the I.A. Constitution, International President Thomas C. Short has granted strike authority to Local One in our efforts to protect and defend our Union. Additionally, The Executive Board of Local One has unanimously agreed to exercise a strike, as previously authorized at our membership strike vote meeting held on Sunday October 21, 2007.

Last night at 7:00 p.m., I was directed by President Short through the I.A. office to exercise a strike at 10:00 this morning. Therefore, I am providing this as a formal and official notice that Local One of The International Alliance of Theatrical Stage Employees is hereby **ON STRIKE** against all Theatres governed under the expired collective bargaining agreements of the Shubert, Jujamcyn and Nederlander organizations **effective today November 10, 2007 at 10:00 a.m.**

As of 10:00 a.m. today, all Local One represented stage employees are **directed to stop all work** and no longer provide any services whatsoever until and unless authorized by the Local One office. All Local One members should proceed as previously outlined and log onto the Local One website at www.iatselocalone.org or contact the hotline at **646-459-1916** with further instructions as we exercise our legal rights.

Respectfully and Fraternally,

James J. Claffey, Jr.
President
Local One, I.A.T.S.E.

cc: Local One Executive Board
Denis Hughes, President, NY State AFL-CIO
Gary LaBarbera, NYC Central Labor Council
Ed Ott, NYC Central Labor Council
Actor's Equity
Musicians Local 802
ATPAM
Local 306
T&T Local 751
TWU Local 764
MASH Local 798
Scenic Artists Local 829
Local 30, Operating Engineers
Teamsters Local 817

THEATRICAL STAGE EMPLOYEES



Organized 1886

Local One IATSE, AFL-CIO
320 West 46th Street
New York, NY 10036-8399
(212) 333-2500 Outside NYC 800-745-0045
FAX (212) 586-2437
Web Site: www.iatselocalone.org



Affiliated 1893

Mr. Herschel Waxman
Vice President, Labor Relations
Nederlander Producing Company of America
1450 Broadway, 6th Floor
New York, New York 10018

July 10, 2007

Dear Herschel,

It is my understanding that you will be sitting in on the upcoming negotiations with the League when we renegotiate our contract that expires on July 31, 2007.

In order to avoid the unfortunate misunderstanding that we had after the last round of negotiations, Local One is willing to commit in writing that we will offer to Nederlander Producing Company of America any better terms and conditions secured by the League in the next contract. In exchange, Local One would expect and accept all of the favorable terms given to the Local by the League, including but not limited to monetary improvements to be offered by Nederlander Producing Company of America.

Local One understands that Nederlander Producing Company of America continues to desire a separate contract with the Local and the Local agrees with this completely; except as described in the paragraph above, the current contract shall remain intact. By signing this letter of agreement both parties will not be required to negotiate simultaneously with the League negotiations. We also recognize that there may be one or two small items that you might wish to discuss separately with the Local because you do not do business exactly the same way as the other two theatre owners. We believe that we can deal with this in a good faith way so that all three theatre owners are treated equally.

If you agree with this proposal, please sign and return a copy of this letter to me.

Sincerely,

James J. Claffey, Jr.
President
Local One, I.A.T.S.E.

Agreed to and accepted

Joseph Nederlander
Nederlander Producing Company of America

Herschel Waxman
Senior Vice President, Labor Relations
Nederlander Producing Company of America